IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 20787 of 2007(Y)

SA.49/2007 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

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1. SHRI.VARGHESE UKKEN, AGED 60 YEARS,
   S/O LOANPPAN, VILLA NO.15, SKY LINE HARMONY,
   NEAR SOUTH INDIAN HEAD OFFICE, THRISSUR.

2. SHRI.LOUIS UKKEN, AGED 27 YEARS,
   S/O.VARGHESE UKKEN, PROPRIETOR OF
   M/S UKKEN PAPER MARTS AND MANAGING PARTNER OF
   M/S.UKKEN PAPER AND BOARDS, RESIDING AT VILLA NO.
   15, SKY LINE HARMONY, NEAR SOUTH INDIAN HEAD
   OFFICE, THRISSUR.

BY ADV. SRI.PAUL MATHEW
SRI.P.V.SREENIJIN
SMT.K.B.SONY

RESPONDENTS:

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1. M/S STATE BANK OF INDIA,
   REPRESENTED BY ITS MANAGER,
   THRISSUR BRANCH, DHARMODAYAM BUILDING,
   ROUND EAST, THRISSUR- 680001.

2. AUTHORIZED OFFICER,
   STATE BANK OF INDIA, THRISSUR BRANCH,
   DHARMODAYAM BUILDING, ROUND EAST,
   THRISSUR- 680001.

BY ADV. SRI.K.K.CHANDRAN PILLAI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

P1: TRUE COPY OF NOTICE DT.5.6.2007 ISSUED BY RESPONDENT.

P2: TRUE COPY OF SALE NOTICE PUBLISHED IN MATHRUBHUMI DAILY ON 5.6.2007.

P3: TRUE COPY OF JUDGMENT OF THIS COURT IN WPC NO.8572/07(U) DT.31.5.2007.

P4: TRUE COPY OF INTERIM APPLICATION NO.1157/2007 IN S.A. 49/07 FILED BEFORE THE DRT ERNAKULAM.

RESPONDENT'S EXHIBITS:

R1(a): COUNTER AFFIDAVIT FILED IN WPC 34649/2006 BEFORE THIS HON'BLE COURT.

ANNEXURE A:- TRUE COPY OF THE LETTER DT.19.7.07.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.20787 of 2007

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Dated this the 1st day of August, 2007.

JUDGMENT

Heard counsel for the petitioners and Standing Counsel for respondents. This is the 6th writ petition filed by the petitioner without mentioning about the earlier writ petitions except about one and about petitioner's failure to comply with the direction issued by this court. In fact this court on 5.7.2007 stayed the auction sale posted by the Bank on the basis of the undertaking by the petitioner that petitioner will soon arrange a purchaser. However, in more than three weeks time petitioner has not been able to put forward any concrete proposal. The facts stated in the counter affidavit prove beyond doubt that petitioner was filing successive writ petitions only to dodge recovery proceedings pursued by the Bank. Therefore, I do not find any justification to interfere in the matter. However, if petitioners are interested to settle liability, petitioners can still arrange purchasers and approach the Bank for settlement. The W.P. is accordingly disposed of leaving freedom to the Bank to notify the property for sale in auction on any date after 15.9.2007, if petitioners do not settle liability by then. However, if petitioners approach with purchasers and

make payments, the Bank need not proceed with the sale. The petitioners are free to negotiate for sale of their property, but sale deed will be executed only after clearing the liability due to the Bank.

Since petitioners have approached this court several occasions and this court granted facility, I do not think petitioners should be allowed to drag the matter before the DRT. Even though counsel for the Bank pressed for cost for filing writ petition without disclosing facts, I feel petitioners can be spared this time. But I make it clear that if petitioners venture in further untenable litigation, they should be made to pay heavy cost.

C.N.RAMACHANDRAN NAIR
Judge

pms